Southwest Housing Solutions

September 24, 2007

Ms. Mary Levine
General Manager/Director of Legal Affairs and
Senior Manager of Low Income Housing Tax Credits
Michigan State Housing Development Authority
PO Box 30044
Lansing, Michigan 48912

Re: 2008-09 Draft QAP for the LIHTC program

Dear Ms. Levine:

Thank you for the opportunity to provide comment on the draft 2008-09 LIHTC Qualified Allocation Plan. ***Southwest Housing Solutions (SWHS) is encouraged and enthusiastically supportive of the Draft QAP as presented.***

SWHS is especially supportive of the manner in which the QAP aligns the utilization of the LIHTC resource with other significant policy and strategic directions established or supported by the Authority including for example: the 5-year Affordable Housing Community Action Plan, Michigan's Campaign to End Homelessness, and Detroit's Ten-year Plan to End Homelessness.

We believe the QAP shares a role in the long term growth of Michigan's economy. The biggest driver of employment and poverty reduction is strong regional economies. Successful regional economies are equivalent to the economic success of urban centers. This draft QAP reinforces these connections.

We appreciate the QAP's motivation to uniquely meet the needs of the States most vulnerable and impoverished residents in a manner which promotes inclusiveness, fairness and opportunity.

<u>We agree with the choice to eliminate the lottery structure of decision making.</u>

We are absolutely supportive of the structure of the Holdback categories most significantly the establishment of the Detroit, Hamtramck, Highland Park (DHHP) Holdback. The allotment of 50% of the annual credit available in the DHHP Holdback supports the many years of advocacy by SWHS and others which was backed by a significant assemblage and analysis of data evidencing the need which is proportionate to the holdback as presented. We further support the emphasis placed on the work of Community Development Corporations (CDC's) and promoting work in Next Detroit Neighborhood Initiative (NDNI) areas.

SWHS' applauds the Authority for its leadership in moving the QAP in a direction strategically aligned with other significant initiatives in the State and demonstrated need. With respect, SWHS' has concerns regarding

Crain's Detroit Business BEST MANAGED NONPROFIT 2005 BUDGET OVER $3M
Housing Main Office: 1920 25th Street • Detroit, MI 48216-1435 • 313.841.3727 main • 313. 841.3734 fax
Housing Opportunity Center: 3627 W. Vernor Hwy. • Detroit, MI 48216-1879 • 313.841.9641 main • 313.841.9647 fax
Se habla Español • www.swsol.org
NeighborWorks CHARTERED MEMBER Equal Opportunity Housing Equal Opportunity Employer

certain specific elements of the QAP. In chronological order as presented in the document, we respectfully request your attention to following:

1. **Section VI. A. Funding Round Schedule.**
   a. A December 2007 round is neither prudent nor practical. Several factors attribute to this belief. The Draft QAP will not be enacted until late October, at best, barring any drawn out scenarios. This leaves just sixty days for developers to assemble projects. This bare minimum amount of time will be difficult for developer's to achieve and even more difficult for market, environmental and other consultants to meet such stringent timelines. Bridging several significant holidays only complicates the timing requirements. Additionally, without the benefit of knowing the scoring criteria developers have little opportunity to attempt to position projects for application prior to the publishing of the final QAP document. Also, the implementation of a funding round under the existing QAP undermines the credibility of the importance of the objectives the proposed QAP promotes. **Alternatively, SHWS suggests repeating what occurred in 2005 by allocating 100% of the 2008 credit and 50% of the 2009 credit in one calendar year – 80% in February or March 2008 and 70% in October 2008.**

   b. Also, in the same section the Authority suggests to eliminate personal delivery of applications. **SWHS does not believe this is warranted as it jeopardizes the significant investments made by developers taking control out of their hands and placing it in delivery services which do not have a vested interest in the success of the delivery.**

2. **Section VI. B. LIHTC Allocation limits.**
   a. SWHS generally supports the limiting, by the Authority, of two applications per sponsor per funding round and that a single sponsor receive no more than 10% of the annual credit available. Definition of the word 'Sponsor' should be provided within the Draft QAP to eliminate any potential confusion. It is probably clearly understood what a sponsor 'is', but much more interpretive as to what a sponsor 'is not'. SWHS would recommend that a sponsor <u>is not</u>:

      - A consultant hired to perform typical duties on behalf of a sponsor even if those duties involve all or nearly all of the relevant developer activities; or,
      - A co-general partner with not more than a 50% interest in the project;

   Additionally, a sponsor should be able to rely on the credentials of its properly retained development consultant to meet the point scoring test of sponsor experience, should that criterion remain included in the scoring section. These suggestions are especially important to ensure the appropriate and efficient use of the credit resource. For example, future work targeted for the Next Detroit Neighborhood Initiatives (NDNI) communities within the DHHP Holdback will, most likely, require the significant participation of companies and organizations not currently working in those communities; and, many of these companies and organizations have their own priorities to meet in other neighborhoods. There are very few groups in the NDNI target areas with the experience or capacity to undertake projects the scale of an LIHTC project, and even fewer with the balance sheet required to meet investor guarantees. Many experienced groups would welcome the opportunity to aid the development of these neighborhoods, as long as it is not at the expense of the goals of their traditional communities. Undefined, this restriction of sponsor participation potentially will reduce the opportunity for less experienced, legitimate, community-based nonprofits to gain access to the needed expertise to develop affordable housing by partnering with experienced developers.

Similarly, the Draft QAP places emphasis on the utilization of experienced development teams. This proposition may establish a contradiction through imposing an artificial limit on the number of applications experienced owners and developers can submit in any given round or year. Partnerships between experienced developers and less experienced organizations need to be encouraged, not hampered by restrictions. **SWHS recommends a clear and understandable definition of "Sponsor" respective of these complexities be included in the QAP.**

b. SWHS believes the single project annual credit caps, as proposed, are too varied and too restrictive. For example, within the DHHP Holdback, Subcategory b. suggests approximately 20% of the Holdback be allocated to Special Needs/Supportive Housing projects. A cap of 30% on this subcategory (which is 20% of 50% of the annual credit amount and assuming $19 million in annual credit authority) results in a credit cap of $570,000, please see the following table:

Assuming $19,000,000 in annual credit authority, caps within the DHHP Holdback of $9,500,000 would reflect:

Subcategory and %	Allocation Goal	Credit Cap multiplier	Credit Cap
a. NDNI 40%	$3,800,000	30%	$1,140,000
b. Supp Hsg 20%	$1,900,000	30%	$ 570,000
c. NE/CDC 20%	$1,900,000	N/A – flat cap	$ 750,000
d. General 20%	$1,900,000	30%	$ 570,000

While projects of any size can be successful, optimal project sizes, based on our experience and observation, have historically been in the 40-55 unit range. This range provides the best mix of integration of supportive housing tenants, impact on the community, maximizing the efficiency of the LIHTC resource, ensuring solid underwriting, providing the right variety of targeted AMI units to offset the expense of providing supportive housing units at 30% AMI and below, and maximizing the earning of developers fees. SWHS experience over the past several years, completing projects similar to anticipated applications in the DHHP Holdback, yields an average credit allocation per unit of ~$15,000. At a cap of $570,000, projects at and above 40 units become unattainable. Application of this analysis to other Holdbacks will probably yield similar challenges, as well. **SWHS recommends a standardized project allocation cap of $750,000 per project in the DHHP holdback, as well as, a review of caps in other Holdbacks to ensure the viability of well designed projects.**

c. We applaud the introduction of a 50% DHHP Holdback, however, believe that 40% to an NDNI Subcategory is too aggressive. Conceptually, we support the targeting of resources to NDNI. At this time we believe that there is not sufficient capacity, planning, or direction to warrant 40% of the DHHP holdback. In fact, and although we hope the Initiative quickly gains significant momentum, it is unclear to predict when capacity and demand for the credit will materialize. **Alternatively, SWHS suggests that the NDNI Subcategory and CDC Subcategory within the DHHP Holdback be merged into one Subcategory of 60% of Holdback open to projects located in NDNI target neighborhoods or sponsored by CDC's in other geographies where demonstrated consistency with municipal or local planning exist.** The balance of the credit in the DHHP holdback would remain as 20% to Supportive Housing and 20% to general projects.

d. The final paragraph in this section categorically excludes applications which propose single-family scattered site acquisition/rehabilitation projects. While we agree that such projects can be extremely challenging or unpredictable, in today's climate of high foreclosure rates and increased vacancy and abandonment of good quality single-family housing we believe it is imperative that organized and competent sponsors have the option to create projects which can reduce the negative impact of foreclosures on neighborhoods. **SWHS suggests that the Authority allow sponsors to submit applications for single-family scattered site acquisition/rehabilitation projects with the required stipulation that such applications gain the written approval of the Executive Director or Director of Legal Affairs prior to submission.**

3. **Section VIII. Eligibility Requirements**.
   a. <u>SWHS enthusiastically supports the elimination of the lottery and a return to a merit based system for the allocation of credits.</u>

   b. Section VIII. A. 2. introduces several new requirements for General Contractors to commit to meeting identified social and economic requirements, presumably enlarging the impact benefit of the LIHTC resource. In general, we support the inclusion of principles which broaden the LIHTC's ability to make positive impact on our communities; and, we are proud to say that SWHS has long worked with a general contractor who supports these ideals and has a demonstrated track record of doing so. The coupling of a Prevailing Wage requirement with the other socially minded objectives listed creates a serious contradiction. To reach Local Resident Workforce and Disadvantage Business Enterprise Goals often times means working with companies which have a lack of capital, administrative capacity, and/or critical experience. Prevailing Wage comes with a huge administrative burden which many of these companies can not assume to perform. This burden must then fall back to the general contractor. A burden falls, too, on the Owner since the issuance of the 8609 is at risk. Even as an experienced Owner, we are not confident that SWHS, for example, has the knowledge or capacity to perform this type of specific and critical oversight. We can clearly anticipate a scenario which will require SWHS to hire a consultant to provide monitoring and oversight to ensure compliance. Furthermore, there is a theme throughout the QAP relative to maximizing the efficient use of the LIHTC resource. Prevailing Wage accomplishes just the opposite by unnecessarily driving up the cost of construction and burdening the process with excess administrative paperwork. **SWHS remains seriously concerned about the necessity to include these requirements in the QAP and strongly recommends that any monitoring or enforcement of these requirements, should they remain a part of the QAP, be outside and unrelated to the issuance of Form 8609.**

   c. **Section VIII.A.18.** references providing evidence of submission of applications to at least three equity investors by way of a letter from each investor stating the price per credit dollar offered and general terms and conditions. Especially in today's unstable economic climate, we support the requirement to provide evidence of support from an equity investor which has completed some basic underwriting, and review of suitability and marketability of the proposed project to its investors. The requirement for three letters of intent seems excessive and an exercise in futility. It has the ability to force sponsors to inquire of equity syndicators with which they have no serious willingness to partner. It will put great pressure on equity syndicators to provide a ridiculous quantity of letters to organizations which will ultimately not partner with them. Price per credit dollar is but one of a host of important considerations when selecting an equity partner. Ultimately, equity partnerships are built on relationship, even more so than economics. Competent developers with experienced track records akin to the Authority's requirements already likely employ a method of obtaining multiple inquiries from potential equity partners. It is simply a sound business decision. <u>Requiring preliminary evidence of support from an equity partner at time of application is sound practice</u>. Creating a standard, such as the requirement for three letters, which lack credibility and sincerity, serves little productive purpose. **SWHS**

recommends that applicants be required to submit a minimum of one (1) and no more than three (3) letters of intent from equity investors with the same additional restrictions as outlined in the section.

Furthermore, in **Section XI.** the Authority elaborates on an intention to use the information in the letters provided by the equity investors to establish an average credit dollar amount to be used in the individual applications underwriting. An immediate problem is evident with this proposal. An application with a wide disparity in price per credit dollar or a savvy applicant conspiring with its equity investors may very likely secure allocations of credit far in excess of what is required to adequately complete the project. Large disparities in the average credit dollar vs. actual credit dollar will create scenarios in the gap analysis which reserve credits for projects far in excess of what is required. This will ultimately result in a less efficient use of the credit, a process which the Authority should promote and control – not applicants. **SWHS recommends that the Authority employ an alternative method for determining the proper amount of credit dollar used to underwrite applications.**

d. **Section VIII.A.19.** identifies the incorporation of green community/new urbanism elements, including some items as mandatory. SWHS firmly supports the principles of green building and their theoretical inclusion in the QAP **but cannot support the inclusion of the current requirement in the 2008-2009 QAP due to the lack of opportunity to adequately review and comment on the proposed requirements**. Serious cost issues, restrictive conditions relative to historic rehabilitation, and a lack of support for certain products or methods by local municipalities affect many elements of green building. An understanding of the list of 'mandatory' requirements is needed before SWHS can support this requirement.

e. **Section VIII.A.24.** iterates the need for acquisition/rehabilitation projects to submit a Capital Needs Assessment. SWHS believes this is a good opportunity to provide clarification that acquisition/rehabilitation projects which are proposing full-gut rehabilitation should not be required to submit a CNA, as the evaluation of materials and systems within the building is fruitless relative to their eminent wholesale demolition and removal.

4. **Section IX. Evaluation Criteria** clearly identifies a process and procedure for the correction of minor deficiencies in applications with specific remedial actions and emphasis on accuracy within the original submission. **SWHS supports the inclusion of these procedures.**

5. **Section X. Underwriting Standards. 2.** suggests that project reserves be eliminated from the calculation of developer fees. SWHS believes this is unwise as undue pressure will be placed on developers to create ways to minimize these valuable assets in order to maximize their fee. Additionally, it causes a disincentive for developers to include creative reserves for the subsidy of Supportive Housing units or the provision of supportive services. SWHS has positive experience in utilizing reserves as tools for the provision of supportive housing and believes that developers should be incentivized for their creativity. **SWHS recommends that the Authority reconsider the elimination of project reserves from the developer fee calculation.**

6. Additionally, SWHS generally supports the continued inclusion of specific supportive housing goals and objectives. Regarding the Supportive Housing Holdback and the Supportive Housing Subcategory within the DHHP Holdback, the draft QAP does not specify the particular percentage of units to be reserved within the project to qualify for participation. In the recent past, of course, the percentage was 25% - an apt amount. Conversation has indicated that the required percentage could

be 25%, 30% or even 35%. In determining an appropriate percentage three circumstances, minimally, need be considered: Development cost, operating cost, and community integration. Specifically:

- The establishment of Supportive Housing Units can contribute to development cost challenges. It is important to note that, especially in an urban context as this QAP is directed, units at or below 30% AMI typically cannot afford and do not contribute to debt payments; and, studio and 1 bedroom units, popular in meeting the needs of the homeless, rarely generate enough income to cover basic operating expenses.
- Operating costs for developments which include Supportive Housing units typically exceed the industry average, exclusive of the cost of direct services. Operating costs tend to run 10%-35% more.
- Community integration, from many perspectives, has long been a basic tenet supported by the QAP. Whether through an affordable fair housing marketing plan, targeting of families with lower incomes, or supportive housing – a mix of social and economic diversity is encouraged. A project with 25% of its units reserved for Supportive Housing has proven to be effective. It creates opportunity which is significant without an over concentration of poverty or persons with disabilities.

SWHS believes that 25% is an appropriate percentage; however, the integrity of projects could well be maintained reserving 30% of project units for Supportive Housing. SWHS firmly believes that reserving 35% of project units for Supportive Housing is too aggressive.

In total, SWHS is extremely supportive of the direction and goals of the draft QAP. We hope you find our recommendations and suggestions to be constructive and in keeping with the general intent of the document.

Sincerely,

Timothy S. Thorland
Executive Director

cc: M. DeVos, Executive Director, MSHDA
S. Tobocman, Majority Floor Leader, Michigan House of Representatives, 12th District
R. Strong, Executive Director, Community Development Advocates of Detroit
A. Gaabo, Executive Director, Community Economic Development Association of Michigan